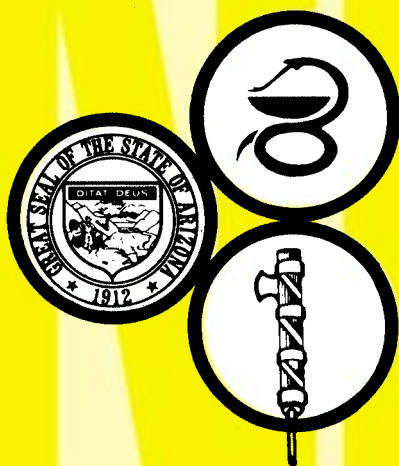


July 2001



# Arizona State Board of Pharmacy

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Published to promote voluntary compliance of pharmacy and drug law.

## Administrative Rules

At the May 16 Arizona State Board of Pharmacy meeting, the following administrative rules were on the agenda for discussion and possible revision. Interested parties are invited to view these rules on the Board of Pharmacy Web site at [www.pharmacy.state.az.us](http://www.pharmacy.state.az.us) or contact the Board office for copies. Comments or questions relevant to proposed revisions may be sent to the Board in writing, specifying the rule and subsection and with comment or question: R4-23-606, 607, 613 (pharmacy permits); R4-23-604 (drug manufacturer permits); R4-23-1101, 202, 203, 204, 205 (pharmacist licensure/fees); R4-23-110, 205, 301, 302, 303, 304, 305 (intern/preceptor); R4-23-110, 404, 405, 406, 407, 409 (prescription requirements); R4-23-110, 671, 674, 701, 701.01, 701.02, 701.03 (long-term care).

The Board approved the Notice of Final Rulemaking for the pharmacy permits and drug manufacturer permits rules, and these two packages now go to the Governor's Regulatory Review Council for final approval in August 2001. The pharmacy permits rule adds the requirement for a nonresident pharmacy permit and amends and moves the requirements for discontinuing a pharmacy to a new Section 613. The manufacturer permits rule will incorporate by reference the federal current good manufacturing practices and thus reduce the size of our rule.

As detailed in the April 2001 *Newsletter*, the pharmacist licensure/fees rule will increase pharmacist and pharmacy fees. The proposed intern/preceptor rule revision provides a necessary and long overdue update to the requirements for interns and preceptors. The prescription requirements rule provides the requirements for electronic transfers and allows certain transfers by interns and technicians. The long-term care rules in Article 7 are being amended to complement the addition of a new Section 674 that specifies limited-service, long-term care, pharmacy permit requirements.

## No Damages from Refusal to Dispense

A Connecticut pharmacist was recently sued by a patient who had been refused a medication and who contended that harm had resulted to her from the refusal. The pharmacy had refused to dispense refills of a prescription for Premarin and Provera. Apparently, the patient owed the pharmacy money, and the refusal to dispense was based on the patient's having failed to pay previous bills. The refusal to refill resulted in the patient being denied the medication for one day, following which the patient secured the medication from another pharmacy.

The court held that the patient had failed to prove her damages by preponderance of the evidence. In fact, the patient had offered into evidence no testimony or report from either a physician or a

psychologist indicating that the one-day lapse of medication was deleterious to her health.

The result leaves open the possibility that, had the patient been able to show damages, the pharmacist might have been held liable for refusal to dispense. While most patients, in most circumstances, will be able to "take their business elsewhere," this may not always be the case. In America's legal system, every individual is held responsible for the consequences of the things he or she does (or fails to do), and this includes, under some circumstances, being held responsible for refusing to dispense needed medication.

Several important points should be kept in mind when a refusal to dispense scenario unfolds in your practice:

- ◆ Refusals based on inability to pay or boorish behavior may be appropriate, but make sure to do what can be done to provide an appropriate alternative source of medication to the patient. Always offer to transfer a prescription and to provide a list of alternative pharmacies.
- ◆ Be sure to distinguish clearly between your refusal about what you can do and what you cannot do. If you cannot compound an esoteric prescription, a physician's order is unclear, or some other factor prevents you from dispensing a prescription, make sure the patient knows you are unable, not refusing, to dispense a prescription.
- ◆ Refusals should never be based on prejudice or bias toward the patient or the prescriber.
- ◆ If a refusal to dispense is based on a concern for the patient, be sure to document the nature of the concern and provide in your documentation references to resources that support your conclusion about the patient's health.
- ◆ Avoid paternalistic refusals for a patient who understands the risk. Perhaps the risk for a prescribed medication is greater than you think the patient should accept, and perhaps you would not accept that risk if you were the patient. But you are not the patient. Informed patients should be permitted to make their own decisions about risk, and they should be dispensed medications (even risky ones) if they believe the risk is acceptable.

It is always a drastic step to refuse medication to a patient, and pharmacists usually take this step only under the most extreme circumstances. There is no "play-it-safe" position in drug therapy. Dispensing and refusing to dispense are both legally hazardous. But pharmacists can take care with their refusals and, by being mindful of the principles above, reduce exposure to liability. (Reproduced in part by permission of David B. Brushwood, RPh, JD and *Pharmacy Today*).

## Bits and Pieces

- ◆ The Board commends and congratulates one of its own: Dennis McAllister, past president of the Board and currently serving his second term on the Board. He was elected by his peers at the National Association of Boards of Pharmacy (NABP) 97<sup>th</sup> Annual Meeting to serve a three-year term on the NABP Executive Committee. We extend best wishes to Mr McAllister for a happy and rewarding experience in this important position.
- ◆ Congratulations to the following pharmacists, all of whom will celebrate 50 years of licensure in Arizona during 2001: Duane G. Carter, Mesa; Jerry M. Davidson, Eloy; John M. Mead, Tucson; Morton D. Reich, Tucson; Evelyn D. Timmons, Scottsdale; William F. Voshell, Las Vegas; and Wayne "Cactus" Willer, Cave Creek.
- ◆ In our present professional environment, "medication dispensing errors" command considerable attention, both from the profession and the press. Your editor has addressed the topic on previous occasions. In this issue, I wish to pass on a caution printed in *Pharmacist's Letter-3/01*. The recently released dosage form of Depakote ER, where ER stands for **Extended Release**, has the potential of being confused with the original Depakote because most pharmacists know that the original dosage form is a **delayed release** tablet. Just a word of caution.
- ◆ The United States Pharmacopeia (USP) updated its compilation of similar sounding or similar looking drug names reported in the organization's Medication Errors Reporting Program. Approximately 60 new pairs of similar names have been added since last year. The compilation can be viewed at the following Web site: [www.usp.org/reporting/review/qr76.pdf](http://www.usp.org/reporting/review/qr76.pdf).
- ◆ Have you visited the Board's Web site lately? If not, you may be surprised by what you find. There are links to many valuable information sources, including Board of Pharmacy Administrative Rules (both current and proposed); the Arizona Pharmacy Practice Act; Drug Enforcement Administration information, including a recently released electronic edition of *Pharmacist's Manual*, the federal Comprehensive Methamphetamine Control Act, and other federal controlled substance information; Board meeting schedules; "draft" minutes of the latest Board meeting; links to Drug Information/Poison Control; both University of Arizona and Midwestern University-Glendale Colleges of Pharmacy, and much more. The Board's Web site is not static; rather, it is constantly changing, improving, and evolving. Check it frequently. Do not hesitate to e-mail the staff with your comments/suggestions.

- ◆ Board Meeting date/location for the balance of 2001:  
July 12 ..... Loews Ventana Canyon Resort, Tucson  
September 5-6 ..... Board office, Glendale  
November 14-15 ..... Board office, Glendale
- ◆ For information and assistance with chemical impairment contact Pharmacists Assisting Pharmacists of Arizona (PAPA) 480/838-3668; a life changing opportunity for pharmacists and pharmacy interns.

## Disciplinary/Reinstatement Actions

### Board of Pharmacy

- Jerrold L. Stein, RPh #9213**, effective March 7, 2001, suspension terminated, license now on probation, required to complete Pharmacists Assisting Pharmacists of Arizona (PAPA) participation.
- Jeffrey K. Karp, RPh #11009**, granted permission to serve as pharmacist in charge (PIC), effective May 16, 2001.
- John J. Wells, RPh #11977**, the Board unanimously agreed to terminate the probation on his license, effective May 16, 2001.

### Board of Osteopathic Examiners

- Michael Lawrence Berman, DO #3432**, shall refrain from the practice of medicine effective March 16, 2001 for an indefinite period.
- Mark Goldstein, DO #1572**, license to practice medicine is suspended effective April 13, 2001.
- Robert Michaud, DO #2045**, previously suspended; now on probation, may practice medicine.
- Lillian Puma, DO #2836**, license summarily suspended effective May 12, 2001.

**Notice:** Before making a prescription-dispensing or other patient care decision pursuant to information in this *Newsletter*, we encourage verification of current license status with the appropriate licensing agency (board).

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